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6 Attorneys for Plaintiff  
7 United States of America

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA, ) Criminal Case No. 07cr2902-WQH  
11 )  
Plaintiff, ) GOVERNMENT'S MOTION TO  
12 ) VACATE THE TRIAL DATE  
v. )  
13 )  
RICARDO GOMEZ (2), )  
14 )  
Defendant. )  
15 )  
16 )

17 COMES NOW the plaintiff, UNITED STATES OF AMERICA, by and through  
18 its counsel, Karen P. Hewitt, United States Attorney, and Steve  
19 Miller, Assistant United States Attorney, and hereby files its motion  
20 to vacate the trial date.

21 I

22 STATEMENT OF FACTS

23 Defendant RICARDO GOMEZ is scheduled for trial on June 24, 2008,  
24 in case number 07cr2902-WQH. The Government moves this court to  
25 vacate the trial date in this case and calender the case for a status  
26 on September 2, 2008, for the following reasons:

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28 //

1 Case number 07cr2902-WQH, is an information that was filed on  
2 October 29, 2007, charging defendant with alien smuggling. In  
3 anticipation of a fast-track disposition, defendant signed a  
4 stipulation that agreed to release the material witnesses. The  
5 stipulation also agreed that certain facts about the material  
6 witnesses would be admissible as substantive evidence in the event  
7 that defendant did not plead guilty. Prior to pleading guilty in case  
8 number 07cr2902-WQH, defendant failed to appear.

9 After defendant became a fugitive, he was indicted in case number  
10 07cr3271-WQH. Defendant was eventually captured and brought before  
11 this court. This court scheduled trial in both 07cr2902-WQH and  
12 07cr3271-WQH, on June 24, 2008. On June 6, 2008, defendant pleaded  
13 guilty in case 07cr3271-WQH, before Magistrate Judge Brooks;  
14 sentencing is scheduled for September 2, 2008.

15 It is anticipated by all parties that all the remaining counts,  
16 including the count in the Information, will be dismissed at the time  
17 of sentencing.

18 The Government requests this court to vacate the trial scheduled  
19 for the Information in case number 07cr2902-WQH, and calendar the case  
20 for status on the same day as the scheduled sentencing in case number  
21 07cr3271-WQH. On that day, the Government intends to move this court  
22 to dismiss the Information and the remaining count in the Indictment.  
23 However, if some unforeseen event should occur such that the  
24 disposition in case number 07cr3271-WQH does not occur, then the  
25 stipulation that defendant signed in the original case will still be  
26 viable for trial.

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II

CONCLUSION

For the foregoing reasons, the Government respectfully requests that this court vacate the trial date in case number 07cr2902-WQH and continue it for status on September 2, 2008.

DATED: June 13, 2008.

Respectfully submitted,

KAREN P. HEWITT  
United States Attorney

S/Steve Miller

STEVE MILLER  
Assistant U.S. Attorney

1 UNITED STATES OF AMERICA

2 SOUTHERN DISTRICT OF CALIFORNIA

3 UNITED STATES OF AMERICA, ) Criminal Case No. 07cr2902-WQH  
4 Plaintiff, )  
5 v. ) CERTIFICATE OF SERVICE  
6 RICARDO GOMEZ (2), )  
7 Defendant. )  
8 \_\_\_\_\_ )

9 IT IS HEREBY CERTIFIED THAT:

10 I, Steve Miller, am a Citizen of the United States over the age  
11 of eighteen years and a resident of San Diego county, California. My  
12 business address is 880 Front Street, San Diego, California 92101-  
13 8893. I am not a party to the above-entitled action. I have caused  
14 service of the **GOVERNMENT'S MOTION TO VACATE THE TRIAL DATE** on the  
15 following parties by electronically filing the foregoing with the  
16 Clerk of the District Court using its ECF system, which electronically  
17 notifies them.

18 1. Donald Nunn

19 I hereby certify that I have caused to be mailed the foregoing,  
20 by the United States Postal Service, to the following non-EFC  
21 participants on this case n/a the last known address, at which place  
22 there is delivery service of mail from the United States Postal  
23 Service.

24 I declare under penalty of perjury that the foregoing is true and  
25 correct.

26 Executed on June 13, 2008

27 s/Steve Miller  
28 STEVE MILLER